

House Bill 469

By: Representative Martin of the 47th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
2 relating to the joint county and municipal sales and use tax, so as to change certain provisions
3 regarding procedures for certifying additional qualified municipalities; to provide an
4 effective date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 2 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to the
8 joint county and municipal sales and use tax, is amended by revising Code Section 48-8-89.1,
9 relating to procedures for certifying additional qualified municipalities, as follows:

10 "48-8-89.1.

11 (a) If there exists within any special district in which the tax authorized by this article is
12 imposed a qualified municipality which was not a qualified municipality on the date of
13 filing with the commissioner of the most recently filed certificate under Code Section
14 48-8-89, such qualified municipality may request the commissioner to give notice of the
15 qualified municipality's existence as provided in this subsection. Upon receipt of such a
16 request, the commissioner shall, unless he determines that the requesting entity is not a
17 qualified municipality, within 30 days give written notice of the qualified municipality's
18 existence to the county which is conterminous with the special district in which the
19 qualified municipality is located and to each other qualified municipality within the special
20 district. Such written notice shall include the name of the new qualified municipality, the
21 effective date of the notice, and a statement of the provisions of this Code section.

22 (b) Within 60 days after the effective date of the notice referred to in subsection (a) of this
23 Code section, a new distribution certificate shall be filed with the commissioner for the
24 special district. This distribution certificate shall specify by percentage what portion of the
25 proceeds of the tax available for distribution within the special district shall be received by
26 the county in which the special district is located and by each qualified municipality

located wholly or partially within the special district, including the new qualified municipality. No distribution certificate may contain a total of specified percentages in excess of 100 percent.

(c) Except as otherwise provided in this subsection, a distribution certificate required by this Code section must be executed by the governing authorities of the county within which the special district is located and each qualified municipality located wholly or partially within the special district, including the new qualified municipality. Notwithstanding the fact that a certificate shall not contain an execution in behalf of one or more qualified municipalities within the special district, if the combined total of the populations of all such absent municipalities is less than one-half of the aggregate population of all qualified municipalities located within the special district, the submitting political subdivisions shall, in behalf of the absent municipalities, specify a percentage of that portion of the remaining proceeds which each such municipality shall receive, which percentage shall not be less than that proportion which each absent municipality's population bears to the total population of all qualified municipalities within the special district multiplied by that portion of the remaining proceeds which are received by all qualified municipalities within the special district. For the purpose of determining the population of the absent municipalities, only that portion of the population of each such municipality which is located within the special district shall be computed.

(d) If a new certificate is not filed for any special district as required by this Code section, the authority to impose the tax authorized by Code Section 48-8-82 within that special district shall cease on the first day of January of the year following the year in which the required distribution certificate could last have been timely filed. In any special district in which the authority to impose the tax is terminated pursuant to this subsection, the tax may thereafter be reimposed only pursuant to the procedures specified in Code Sections 48-8-84 through 48-8-86.

(e) If a new certificate is filed as required by this Code section, the commissioner shall begin to distribute the proceeds as specified in the new certificate on the first day of January of the first calendar year which begins more than 60 days after the effective date of the notice referred to in subsection (b) of this Code section. The commissioner shall continue to distribute the proceeds of the tax according to the new certificate until a subsequent certificate is filed and becomes effective as provided in Code Section 48-8-89.

(f)(1) As used in this subsection, the term:

(A) 'New qualified municipality' means a municipal corporation which has been chartered by local Act since the date of filing with the commissioner of the most recently filed certificate under Code Section 48-8-89 within a county which has a special district for the provision of local government services consisting of the

unincorporated area of the county where the population of the unincorporated area of the county, after removal of the population of the new municipality from the unincorporated area, constitutes less than 20 percent of the population of the county according to the most recent decennial census.

(B) 'Newly expanded qualified municipality' means a municipal corporation which since the date of filing with the commissioner of the most recently filed certificate under Code Section 48-8-89 has increased its population by more than 15 percent through one or more annexations and is located in the same county as a new qualified municipality.

(2) Notwithstanding any other provision of this Code section, if there exists within any special district in which the tax authorized by this article is imposed a new qualified municipality or a newly expanded qualified municipality or both, such qualified municipality or municipalities may request the commissioner to give notice of the qualified municipality's or municipalities' existence and status as a new qualified municipality or newly expanded qualified municipality as provided in this subsection. Upon receipt of such a request, the commissioner shall, unless he or she determines that the requesting entity is not a new qualified municipality or newly expanded qualified municipality, within 30 days give written notice of the qualified municipality's existence and status to the county which is conterminous with the special district in which the qualified municipality is located and to each other qualified municipality within the special district. Such written notice shall include the name of the new qualified municipality or newly expanded qualified municipality, the effective date of the notice, and a statement of the provisions of this subsection.

(3) Within 60 days after the effective date of the notice referred to in paragraph (2) of this subsection, a new distribution certificate shall be filed with the commissioner for the special district. This distribution certificate shall address only the proceeds of the tax available for distribution from the percentage allocated to the county in the current distribution certificate and shall specify as a percentage of the total proceeds of the tax what portion of the proceeds shall be received by the county in which the special district is located and by the new qualified municipality and newly expanded qualified municipality, if any.

(4) Except as otherwise provided in this paragraph, a distribution certificate required by this subsection must be executed by the governing authorities of the county within which the special district is located each new qualified municipality located wholly or partially within the special district, and each newly expanded qualified municipality, if any. If a new certificate is not filed within 60 days as required by paragraph (3) of this subsection,

the commissioner shall distribute the proceeds of the tax available for distribution from the percentage allocated to the county in the current distribution certificate such that:

(A) The new qualified municipality receives an allocation equal on a per capita basis to the average per capita allocation to the other qualified municipalities in the county (according to population), to be expended as provided in paragraph (2) of subsection (a) of Code Section 48-8-89; and

(B) Any newly expanded qualified municipality receives a total allocation of tax proceeds (including any amount previously allocated) equal on a per capita basis to the average per capita allocation to the other qualified municipalities in the county (according to population), to be expended as provided in paragraph (2) of subsection (a) of Code Section 48-8-89.

Every other qualified municipality shall continue to receive the share provided by the existing distribution certificate or otherwise provided by law. The county shall receive the remaining proceeds of the tax, to be expended as provided in paragraph (2) of subsection (a) of Code Section 48-8-89. For the purpose of determining the population of qualified municipalities, only that portion of the population of each such municipality which is located within the special district shall be computed. For the purpose of determining population under this Code section, all calculations of population shall be according to the most recent decennial census, including the census data from such census applicable to any annexed territory.

(5) The commissioner shall begin to distribute the proceeds as specified in the newly filed certificate or, if such a certificate is not filed, as specified in paragraph (4) of this subsection on the first day of the first month which begins more than 60 days after the effective date of the notice referred to in paragraph (2) of this subsection. The commissioner shall continue to distribute the proceeds of the tax according to the existing certificate and the certificate applicable to the county and the new qualified municipality or, if such a certificate is not filed, as specified in paragraph (4) of this subsection until a subsequent certificate is filed and becomes effective as provided in Code Section 48-8-89."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.